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ABSTRACT

This model policy is designed to help local school officials provide vendors with the greatest reasonable opportunity to compete for access to the school community, while protecting the school's need for reasonable control of that access, so that students, parents, and staff can obtain the best goods and services at the best price. It is offered not for verbatim adoption, but for consideration and adaptation to local district needs. The rules that follow pertain to (1) determination of need (by the superintendent) for competitive proposals, (2) drawing up specifications for competitive proposals, (3) soliciting competitive proposals, (4) review of proposals, and (5) decision-making. (TE)

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Providing School Students, Staff, and Parents with Access to Vendors of Goods and Services

A
Model Policy
and Rules,
with
Comments

A Service of Your [illegible]

April, 1984

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MODEL POLICY AND RULES, WITH COMMENTS, FOR ASSISTANCE TO LOCAL BOARDS IN MEETING THE NEEDS OF SCHOOLS FOR PROVIDING SCHOOL STUDENTS, STAFF, AND PARENTS WITH ACCESS TO VENDORS OF GOODS AND SERVICES

IMPORTANT: THIS IS A MODEL ONLY

This model contains numerous ethical, educational and legal judgments. Do not accept any portion of this model as local policy or rules until after full and sufficient consideration. It is always wise to have proposed local policies and regulations reviewed by legal counsel.

Prepared by a Committee of the Iowa Department of Public Instruction

Des Moines, Iowa
April, 1984

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Introduction

For many years, it has been the practice in the schools of allowing vendors access to students, parents and staff. This access has normally been for the purpose of assuring a means of providing students, parents or staff with good quality education-related goods and services. Occasionally, because of consistently good quality products and services, single vendors of goods and services came to be heavily relied upon by local school officials as the primary or sole source of specific goods and services. At times this may have inadvertantly resulted in a lack of fairness to competing vendors and may have resulted indirectly in higher prices or lower quality of goods and services.

In recent years several issues have arisen with regard to the propriety of school officials granting vendor access to students, parents and staff without affording competing vendors an equal opportunity. An Attorney General's Opinion appearing at 1980 O.A.G. 580 ruled that school officials must make available an equal opportunity for vendor access to students in music programs.

It is the purpose of this model policy and rules to effectuate a process whereby local school officials may be better assured that their facilitation of access of vendors to students, parents and staff results in the best goods and services at the best price. It also provides school officials with an assurance that the goods and services provided will meet the educational needs and specifications of the district. This model provides for the greatest reasonable opportunity for vendors to compete for school facilitated access to students while protecting the school's need for reasonable control of that access.

Policy and Rules

It is of the utmost importance that a differentiation be made between "policy" and "rules." Policy is that general statement of direction given by the board of directors to all concerned. Rules are those procedures developed by the school administration by which the policy is to be carried out. Rules detail the application of policy to specific circumstances. Proposed policies and rules should always be reviewed by legal counsel.

This model should not be presented for verbatim adoption. It is offered only for consideration and adaptation to local district needs.

MODEL STATEMENT OF POLICY

In order to assure consistent and good quality in products and services provided students and parents by private vendors, it is hereby declared the policy of the _____ School District that whenever the District is responsible for allowing private vendors direct access to students, parents and staff for school-related purposes, it shall normally do so through a competitive proposal process.

Model Statement of Rules

I. Determination of Need for Competitive Proposals

A. Whenever the District staff anticipates facilitating direct contact between private vendors and students, parents and staff, the matter shall be brought in writing to the attention of the Superintendent. The Superintendent, or the Superintendent's designee, shall make a determination of need for competitive proposals.

1. Unless unique circumstances are present which make the competitive proposal process inadvisable because it would not result in consistently good quality goods and services, or because of the availability of only one vendor or for other good reason, the Superintendent, or the Superintendent's designee, shall direct that competitive proposals be solicited.

2. In the event that a determination is made that competitive proposals are not advisable, the reasons for the determination shall be documented by the Superintendent or the Superintendent's designee.

B. Competitive proposals will generally be solicited for the following goods and services when the District or its staff is involved in facilitating direct contact between vendors of those services and goods and students, parents or staff.

1. Musical instruments and associated equipment;

2. Photographs and photographic services;

3. Class rings and jewelry;

4. Book clubs and reading materials;

5. Uniforms, shoes and equipment;

6. Graduation announcements and other printing services;

7. Insurance (e.g., equipment, accident);

8. Fund raising promotions.

(Comment: The list of goods and services provided here is to serve as an example only. Local needs should dictate the specific items included in the list.)

II. Drawing up Specifications for Competitive Proposals

A. When the Superintendent, or the Superintendent's designee, determines that competitive proposals are to be solicited, the Superintendent, or Superintendent's designee, shall designate a staff member to be responsible for the development of specifications. The designated staff member shall involve other persons with an interest and knowledge in the program in developing specifications.

B. Persons drawing up specifications for competitive proposals should consider the following aspects for inclusion in the specifications:

1. Whether it would be most advantageous for the goods and services to be provided by single or multiple vendors.

2. Duration of any agreement, understanding or contract for goods and services.

3. Notice that the agreement, understanding or contract may be voided upon written notice if the vendor violates a material condition of the agreement, understanding or contract.

4. Notice that the agreement, understanding or contract may be voided by the District upon written notice for any reason.

(Comment: Some vendors may not submit proposals if this specification is included. Use it wisely.)

5. Any warranty or guarantee which must be provided by the vendor.

6. The need for participation and presence of vendor representatives.

7. Availability of vendor representatives for presentations and answering questions.

8. Any special skills required for vendor representatives.

9. Price and rate lists to be provided.

10. Refund policy.

11. Any necessary pamphlet or catalog availability.

12. Any special financial arrangements such as time payments, responsibility for collection of money owed, finance charges and application of rental fees to purchase price.

13. Availability of insurance on the purchase.

14. Assurances of delivery dates.

15. Availability of repair, assurances of maximum time for repair and availability of loaner equipment.

16. Availability of pickup and delivery for repair or servicing.

17. Periodic visitations to the school by vendor's representatives.

18. Other requirements, preferences, restrictions or limitations.

(Comment: This list is intended for consideration by those drafting the specifications. It is not meant as a list to be utilized each time proposals are solicited from vendors.)

C. The Superintendent, or Superintendent's designee, shall review and approve all specifications for competitive proposals.

III. Soliciting Competitive Proposals.

A. After the Superintendent, or the Superintendent's designee, has approved specifications for competitive proposals, the Superintendent, or the Superintendent's designee, will direct the time and manner of soliciting for competitive proposals.

B. Solicitation for competitive proposals shall be accomplished through one or more of the following methods as deemed appropriate by the Superintendent:

1. Publication at least one time in a newspaper published in the District at least ten days prior to the time the competitive applications are to be filed.

2. Publication at least one time in a newspaper with areawide or statewide distribution.

3. Notices posted in public places.

4. Publication of notice in industry or special publications.

5. Other methods of notice reasonably intended to reach interested providers of goods or services, including letters addressed to known vendors.

C. Solicitation letters and notices may contain the specifications, conditions and criteria involved in a proposed agreement, understanding or contract for vendor goods and services, or they may contain only general requirements and conditions of competitive proposals if it is intended that interested vendors may request copies of specifications, conditions and criteria.

D. All methods of solicitation of competitive proposals shall specify the time, date, place and manner of filing competitive applications.

E. All solicitation letters and notices shall state that the Board of Directors reserves the right to reject any or all proposals.

IV. Review of Proposals.

A. At the time designated for reviewing competitive proposals, the persons assigned that responsibility will gather and compare and discuss the relative merits of the applications.

B. Persons reviewing proposals shall attempt to compare the applications in a fair and equitable manner, giving consideration to vendor's responses to outlined criteria. In the event that specifications are not met in some material manner, the proposal will be set aside. If specifications are not met, but the omission is not material to the delivery of acceptable goods and services, the persons reviewing the applications may waive specifications not considered material. If information on the proposal is not clear, or is inconsistent, a reasonable attempt will be made to obtain clarification. Reasons for these actions will be documented.

C. Persons reviewing the applications may take into consideration previous experience with the applying vendors and their goods or services. When previous experience with vendors, or their goods or services is an important factor in a decision, either positively or negatively, the rationale shall be documented.

D. The persons reviewing the proposals shall prepare a written recommendation to the Board of Directors. This statement shall specify the basis for the recommendation.

E. The Superintendent, if not involved in the review of proposals, will review the recommendation and comments and may make appropriate modifications.

F. Copies of the final written recommendations will be distributed to persons filing proposals and to other persons upon request.

G. Vendors submitting proposals will be notified of the time, place and date when the recommendation will be submitted to the Board of Directors for its review. Vendors will be advised that they can submit written arguments and rebuttal to recommendations. If requested sufficiently in advance of the meeting, each vendor may, with Board approval, be allowed time for oral presentations for up to ten minutes before the Board of Directors.

V. Decision

A. The Superintendent will place the recommendation on the agenda of an appropriate meeting of the Board of Directors.

B. The Superintendent or Superintendent's designee will report to the Board on the competitive proposal process, the recommendation of the Superintendent and the reasons for the recommendation.

C. The Board will review written comments from vendors, if any, and hear oral comments when requested in advance of the meeting and approved by the Board. Normally, oral comments will not exceed ten minutes for each vendor.

D. At the conclusion of the written and oral presentations, the Board may make its decision with regard to the recommendation. The Board may accept, reject or modify the recommendation, or take other appropriate action such as postponing a decision pending receipt of additional information.

E. Vendors submitting competitive proposals will be notified in writing of the Board's decision.

VI. No student, parent or staff member will be required to purchase goods or services from any vendor chosen under this competitive application process. Reasonably comparable and compatible goods and services will be accepted by school staff for use for school purposes. Students and parents may be counseled with regard to problems which may arise as a result of alternative purchases.

(Comment: If students can acquire musical instruments, graduation photographs, class rings or other goods and services of a comparable and compatible nature from alternative sources, they should not be prohibited from doing so. They can be counseled about potential problems, such as obtaining repair service on mail order items.)